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November 9, 2017

**Via ECF Only**

Magistrate Judge Daniel J. Stewart  
United States District Court  
Northern District of New York  
James T. Foley U.S. Courthouse  
445 Broadway – 4<sup>th</sup> Floor  
Albany, NY 12207

Re: Cinthia Thevenin v. City of Troy, et al.  
Index No.: 1:16-cv-1115(NAM/DJS)  
Our File No.: 11166-0001

Dear Judge Stewart:

I am writing to provide a brief status update in this matter and to request a telephone conference to address some outstanding discovery issues.

As previously advised, this office forwarded a proposed subpoena to the Office of the Attorney General (“OAG”) seeking the disclosure of any and all ballistics reports, accident reconstruction report, and/or reanimation report that may have been commissioned by the OAG with respect to the death of Edson Thevenin on April 17, 2016. On November 2, 2017, Ms. Adrienne Kerwin, Assistant Attorney General, advised that the OAG objects to the proposed subpoena and will move to quash based on, *inter alia*, the law enforcement privilege. However, the OAG is willing to disclose the information that the subpoena seeks by January 2, 2018, without the need for a subpoena.

Given the tight discovery deadlines in this matter, and our past efforts to obtain this information from the OAG, we are seeking the Court’s guidance in resolving this issue.

Plaintiff would also like the conference to address an additional non-party’s failure to comply with a *subpoena duces tecum*. On September 18, 2017, Plaintiff served a *subpoena duces tecum* on non-party North Greenbush Ambulance Association (NGAA), requesting production of documents on or before October 10, 2017. After no response was received from the NGAA, Plaintiff attempted to follow up with the NGAA on October 17, 2017 by certified letter, however the certified letter was returned by the US Postal Service as “unclaimed.” Plaintiff also faxed a letter and additional copy of the subpoena to the NGAA at the fax number listed on their website, however the NGAA also never responded to this letter. As such, Plaintiff would like the

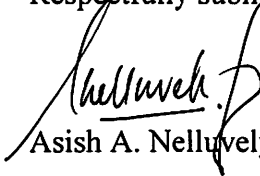
requested conference to serve as guidance as to how the Court would prefer that Plaintiff proceed in moving to compel compliance with this subpoena.

Parties also have additional discovery disputes relating to the following issues:

- Disclosure of draft reports prepared by Sgt. French; and
- Disclosure of the communications made by the officers during a peer counseling meeting following the incident at issue.

I have discussed the above discovery disputes with Mr. Torczyner, who joins in our request for a conference with the Court to address these issues.

Respectfully submitted,



Asish A. Nelluvally

AAN/aan

cc: Michael A. Rose, Esq., Hach & Rose LLP (*via ECF only*)  
Neil S. Torczyner, Esq., Harfenist Kraut & Perlstein LLP (*via ECF only*)